

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45273 of 2019

Arising Out of PS. Case No.-38 Year-2007 Thana- PARSABAZAR District- Patna

Prabhat Kumar, Son of Shatrughan Singh, Resident of Village - Chilbili, P.S.-
Parsa Bazar, District - Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pawan Kumar Singh
For the Opposite Party/s : Mr.Binod Bihari Singh

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

4 27-09-2019 The present application has been filed under Section
389(2) of the Cr.P.C.

Heard learned counsel for the petitioner and the State.

Learned counsel for the State submits that it should be
levelled as Cr. Appeal, instead of Cr. Misc.

Levelling is immaterial whether it is Cr. Misc. or Cr.
Appeal, both the subject is amenable to Single Judge.

The petitioner has invoked the jurisdiction under
Section 389(2) of the Cr.P.C. and as such the objection raised on
behalf of the State does not merit any consideration. Adverting
to the merit of the present application, the Court finds that the
petitioner was juvenile, aged about 14 years at the time of
alleged occurrence.

Learned counsel for the petitioner has drawn the



attention of this Court to Annexure-1, the order passed in Cr. Appeal No. 107 of 2019 dated 17.05.2019 by which the Additional Sessions Judge-XVII, Patna rejected the petition for bail on the ground that the appellant has been convicted and sentenced to undergo Simple Imprisonment for two years for the offence under Section 354 of the Indian Penal Code and further Simple Imprisonment of one month for the offence under Section 341 of the Indian Penal Code.

From Annexure-2, it appears that the Judicial Magistrate, 1st Class, Patna has convicted the petitioner vide judgment dated 06.04.2019 in Parsa Bazar P.S. Case No. 38 of 2007 and he has been sentenced to undergo S.I. for two years and to pay a fine of Rs.10,000/- for the offence under Section 354 of the Indian Penal Code and he has been also awarded sentence S.I. for one month for the offence under Section 341 of the Indian Penal Code and fine of Rs.500/-.

From Annexure-3, it is evidently clear that the petitioner's date of birth is 10.01.1993 and on the date of alleged occurrence i.e. on 16.06.2007, the petitioner was 14 years old.

It is unfortunate that the juveniles are treated like mature people and the petitioner notwithstanding the fact that on the date of occurrence was 14 years old, was convicted by the



Judicial Magistrate, 1st Class, Patna ignoring the concept of juvenile delinquently and juvenile in conflict with law under the Juvenile Justice (Care and Protection of Children) Act, 2015.

Noticing the fact that entire exercise of jurisdiction by the Judicial Magistrate, 1st Class, Patna and the appellate power exercised by the Additional Sessions Judge-XVII, Patna is in teeth of the scheme of Juvenile Justice (Care and Protection of Children) Act, 2015, the Court direct the release of the petitioner for parental care forthwith.

With the aforesaid, the present application stands allowed.

(Anil Kumar Upadhyay, J)

uday/-

U		T	
---	--	---	--

